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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,361	10/01/2001	Kurt Silber	037 / 50187	3901

7590 02/13/2003  
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EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/966,361

Applicant(s)

SILBER ET AL.

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Specification*

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
3. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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5. **Claims 3, 5, 8, 11-16 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Claim 3 recites the limitation "the gravitational force" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 3, Examiner is unsure what applicant means by stating the curved paths are directed against the gravitational force.

Regarding claims 11-16 and 18, the phrase "wherein the module comprises a radiator with air guiding elements placed upstream and downstream, ..." Examiner is unable to ascertain precisely what the air guiding element is placed upstream and downstream of what component.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-10, and 17 are rejected as understood under 35 U.S.C. 102(b) as being anticipated by Hanafusa (US Patent 5,429,182).** Hanafusa discloses a fastening arrangement for a module for the fastening of the module on a vehicle body, wherein fastening points (See Fig. 1) of the module are constructed as a plurality of elongated openings (See Fig. 1, the brackets 11 have elongated openings) extending in the same direction; wherein the elongated openings are constructed at least partially as a curved path; wherein end areas of the curved paths are directed into a mounting position of the module against the gravitational force; wherein the curved paths are constructed such that a movement of the module is achieved during the mounting operation (it is inherent during the mounting process that the module is moved into a

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mounted position); wherein on at least one of the elongated openings, at least one flank of the elongated opening is constructed as an insertion aid.

Regarding claim 17, Hanafusa inherently discloses the method of fastening a vehicle radiator module to a vehicle using the fastening arrangement of claim 1.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wurfel (US Patent 5,915,490) in view of Hanafusa (US Patent 5,429,182).** Wurfel discloses a vehicle assembly comprising a vehicle body (See Fig. 2) having a plurality of protruding fastening lugs (40), and a module (10) including a module frame (25) with a plurality of fastening openings engagable over the fastening lugs (See Fig. 2). Wurfel does not disclose wherein said fastening openings are elongated openings extending parallel to one another to facilitate placement of said module with said module frame fastening openings surrounding the respective fastening lugs, and adjusting sliding movement with the module transverse to the fastening lugs to an installation position while supported at the fastening lugs. Hanafusa discloses wherein said fastening openings (on bracket 11) are elongated openings extending parallel to one another to facilitate placement of said module with said module frame fastening openings surrounding the respective fastening lugs, and adjusting sliding movement with the module transverse to the

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fastening lugs to an installation position while supported at the fastening lugs. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to substitute the elongated fastening openings disclosed in Hanafusa for the fastening openings disclosed in Wurfel. The motivation for doing so would have been to allow for adjustment of the position of the module during installation of the module.

Regarding claim 20, Hanafusa discloses wherein at least one of said elongated openings is curved. Additionally, the fastening openings disclosed in Wurfel disclose wherein the module frame and module are secured against gravity when in a preassembled position and during transverse sliding of the module frame to an installation position.

Regarding claim 21, Hanafusa discloses wherein one of the elongated curved openings is open laterally to accommodate insertion of the module frame laterally over a corresponding fastening lug.

Regarding claims 22-23 and 27-28, Wurfel discloses wherein said module includes a radiator (11) and air guiding elements (15) held on the module frame.

Regarding claims 24-26, the method of assembling the module to the vehicle body is inherently taught by the combination of Wurfel with Hanafusa. Hanafusa discloses wherein at least one of the elongated curved openings is open laterally to accommodate insertion of the module frame laterally over a corresponding fastening lug.

9. **Claims 11-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanafusa (US Patent 5,429,182) in view of Wurfel (US Patent 5,915,490).** Hanafusa discloses a module as set forth above, but does not disclose air guiding elements which are held in a modular frame, wherein an opening is provided on one of the air guiding openings, which

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rests on a corresponding opening of a vehicle body when in the mounted position, with a plane of the openings being arranged essentially perpendicularly with respect to a mounting plane of the module. Wurfel discloses an air guiding element (15) held on the module frame, wherein an opening is provided on one of the air guiding elements, which rests on a corresponding opening (16) of a vehicle body when in the mounted position (See Fig. 6), with a plane of the openings being arranged essentially perpendicularly with respect to a mounting plane of the module. At the time of the invention, it would have been obvious to combine Hanafusa and Wurfel to provide an air guiding element for the radiator module disclosed in Hanafusa. The motivation for doing so would have been to provide a supply of cooling air to be guided over the radiator to cool the engine of the vehicle.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on M-Th (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4195 for regular communications and (703) 306-4195 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

J. Allen Shriver  
Examiner  
Art Unit 3618

JAS  
February 9, 2003

  
BRIAN L. JOHNSON  
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